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Supreme Court, U.S.
FILED

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OFFICE OF THE CLERK

No. _____

In the
Supreme Court of the United States

October Term, 1995

EURICA CALIFORRNIAA,
Petitioner

- v. -

THE PRESIDENT OF THE UNITED STATES,
Respondent

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

H.E. M. Don Eurica Californiaa
Ambassador Extraordinary and
Plenipotentiary
57 Circle Way
Mahopac, New York 10541-1736
Tel: (914) 628-5015

Petitioner, *in propria persona*

8/1/95

QUESTIONS PRESENTED

As a statutory obligation under Supreme Court Rule 45.1, does the President of the United States have any ministerial duty to address errors in the process of the Supreme Court of the United States; and, as a constitutional obligation under Article II, does the President of the United States have any ministerial duty to preserve, protect, and defend the Fourteenth Amendment from error?

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NO. _____

IN THE SUPREME COURT

OF THE

UNITED STATES OF AMERICA

October Term, 1995

EURICA CALIFORRNIAA,

Petitioner

- v. -

THE PRESIDENT OF THE UNITED STATES,

Respondent

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Petitioner, Eurica Californiaa, respectfully prays that a writ of certiorari issue to review the judgment and order of the United States District Court for the Central District of California before judgment by the United States Court of Appeals for the Ninth Circuit. The judgment and order of the District Court dismissed Petitioner's civil action on the ground that the Fourteenth Amendment cannot serve as authority for a lawsuit against the President of the United States.

OPINIONS BELOW

The Judgment and related Order Dismissing Complaint for Lack of Subject Matter Jurisdiction of the United States District Court for the Central District of California appear in Appendix A to this Petition. The docketing letter of the Court of Appeals appears in Appendix B to this Petition.

JURISDICTION

Notice of Appeal was filed in the United States Court of Appeals for the Ninth Circuit on February 8, 1996. This court's jurisdiction is invoked under Title 28, U.S.C. § 1254(1).

This Petition is respectfully submitted under Supreme Court Rule 11.

The Petitioner has been made duly aware that the court seldom grants Rule 11 Petitions. However, given that the present matter demonstrates one of extremely imperative public importance, the court must be asked to consider this Petition.

It is a matter of imperative public importance that demise is being produced against the whole person of fetuses without the consent of sound medical learning. There is no other way to prevent the occurrence of such demise except by direct recourse to this court under Rule 11.

Specifically, under Roe v. Wade, 410 U.S. 113 (1973), the court has ruled:

> The appellee and certain *amici* argue that the fetus is a "person" within the language and meaning of the Fourteenth Amendment. In support of this, they outline at length and in detail the well-known facts of fetal development. If their suggestion of personhood is established, the

> appellant's case, of course, collapses, for the fetus' right to life would then be guaranteed specifically by the Amendment. The appellant conceded as much on reargument. 156-157.

This ruling in effect suggested that the court would be willing to offer immediate protection to fetuses whenever it could be established by sound medical learning that fetuses are persons. Because of this consideration, the court's involvement here under Rule 11 is warranted.

It may be noted that the court's medical insight during Roe v. Wade was neither complete, nor was it necessarily sound. However, this stands to reason. And, therefore, justice should take this opportunity to address its continuing interest in truth.

Thus, jurisdiction is here specifically created under the existence of medical evidence determined relevant on the basis of the previous interest of this court as stated in its own case law. Specifically, Petitioner is able to establish the personhood of fetuses as follows:

1) Human fetuses have been found by medicine to demonstrate the existence of personal facts respecting their bodies as human individuals, particularly, human females create the reproductive eggs which provide for the future of posterity while fetuses, 2) in view of this fact, if the judiciary were not to accept fetuses as persons, but rather as parts of the mother's own body, then a disproof of such thinking would exist by manner of *reductio ad absurdum*, namely, in that the reproductive egg by which each fetus was conceived would originally belong not to the fetus' immediate mother, but rather, to the fetus' maternal grandmother.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Supreme Court of the United States Rule 45.1 is set forth in Appendix C.

Article II, section 1, clause 8 of the United States Constitution is set forth in Appendix D. Amendment XIV, section 1 to the United States Constitution is set forth in Appendix E.

STATEMENT OF THE CASE

Petitioner's civil action was filed in the United States District Court for the Central District of California on November 7, 1995. The District Court had jurisdiction pursuant to Title 28, U.S.C. § 1651(a). The District Court dismissed Petitioner's action upon Judgment and related Order entered December 13, 1995. See Appendix A. On February 8, 1996 Petitioner filed Notice of Appeal to the United States Court of Appeals for the Ninth Circuit. See Appendix B.

REASONS FOR GRANTING THE WRIT

On November 7, 1995, Petitioner, proceeding pro se, filed a civil action in the United States District Court for the Central District of California. Petitioner alleged that he had been unduly abused by abortion policy in the United States. In an effort to remedy these sorts of abuses, Petitioner offered a compelling challenge to existing case law concerning abortion. Petitioner further alleged that the President of the United States was to be held liable under Supreme Court of the United States Rule 45.1 for all errors in the process of the Supreme Court of the United States, and, therefore, the Petitioner's lawsuit was filed against the President of the United States.

In order to understand the District Court's response to Petitioner's civil action, it is necessary to consider the nature of the challenge which the Petitioner offered regarding existing abortion law, namely, that this challenge, in part, focused on the Equal Protection clause of the Fourteenth Amendment to the Constitution of the United States. So, without ever addressing any suitable liability of the President of the United States under Supreme Court of the United States Rule 45.1, the District Court offered its *sua sponte* challenge to subject matter jurisdiction, saying, "However, the President of the United States is not a state nor does he act on behalf of a state. Instead, he is a member of the executive branch of the federal government. Therefore, the Fourteenth Amendment cannot serve as authority for a lawsuit against the President of the United States."

The Petitioner objects to this routine of indirection on the part of the District Court on ground that Supreme Court of the United States Rule 45.1 specifically addresses the President of the United States, and not, for example, Casper the Friendly Ghost. Thus, either the President of the United States is to be held liable in good faith for all process issued in his name, or else the United States government is attempting to have one hand wash the other, meaning, whereby the Supreme Court of the United States issues its process in the name of another, yet this other has no liability with respect to the process issued in his name. This sort of duplicity in government must not be tolerated. The District Court should have first considered subject matter jurisdiction under Supreme Court of the United States Rule 45.1, not the Fourteenth Amendment to the Constitution of the United States. And, therefore, this court should grant certiorari to review this entire matter.

CONCLUSION

For the reasons set forth above, a writ of certiorari should issue to review the judgment and order of the District Court in this matter before judgment by the Court of Appeals.

Dated: March 16, 1996

Respectfully submitted,

/s/ _____

H.E. M. Don Eurica Californiaa
Ambassador Extraordinary and Plenipotentiary
Juridic State of Nature

Petitioner, *in propria persona*

Enter JS-6

FILED
CLERK, U.S. DISTRICT COURT
DEC 11 1995
CENTRAL DISTRICT OF CALIFORNIA
BY /s/ DEPUTY

ENTERED
CLERK, U.S. DISTRICT COURT
DEC 13 1995
CENTRAL DISTRICT OF CALIFORNIA
BY DEPUTY

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

EURICA CALIFORRNIAA, Plaintiff,	)	NO. CV 95-7606-JSL (CT)
v.	)	JUDGMENT
THE PRESIDENT OF THE UNITED STATES, Defendants.	)	

Pursuant to the Order Dismissing Complaint for Lack of Subject Matter Jurisdiction,

IT IS ADJUDGED that the action is dismissed for lack of subject matter jurisdiction.

DATED: 12-7-95

/s/ _____
J. SPENCER LETTS
UNITED STATES DISTRICT JUDGE

Enter

FILED
CLERK, U.S. DISTRICT COURT
DEC 11 1995
CENTRAL DISTRICT OF CALIFORNIA
BY /s/ DEPUTY

ENTERED
CLERK, U.S. DISTRICT COURT
DEC 13 1995
CENTRAL DISTRICT OF CALIFORNIA
BY DEPUTY

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

EURICA CALIFORRNIAA, Plaintiff,	)	NO. CV 95-7606-JSL (CT)
v.	)	ORDER DISMISSING
THE PRESIDENT OF THE UNITED STATES,	)	COMPLAINT FOR LACK OF SUBJECT MATTER
Defendant.	)	JURISDICTION
_____	)	

On November 7, 1995, plaintiff, proceeding pro se, filed a civil action in this court.

Plaintiff appears to allege that the President of the United States has violated the Fourteenth Amendment and is liable for all errors made by the Supreme Court including the Supreme Court's error in Roe v. Wade, 410 U.S. 113 (1973), which legalized certain abortions. As relief, plaintiff essentially requests an injunction against future abortions and damages.

Plaintiff has filed three prior actions in the Central District of California alleging similar violations against different defendants. All three lawsuits were dismissed with prejudice.[1]

DISCUSSION

1. Subject Matter Jurisdiction

District courts have original jurisdiction of all civil actions arising under the Constitution, laws or treaties of the United States. 28 U.S.C. § 1331. The district courts also have original jurisdiction of all civil matters where the amount in controversy is greater than $50,000 and is between citizens of different states or between citizens of a state or different states and subjects of a foreign state. 28 U.S.C. § 1332.

A challenge to the court's subject matter jurisdiction can be raised at any time, including sua sponte by the court itself. Fed. R. Civ. P. 12(h)(3); May Co. Dept. Store v. Graphic Process Co., 637 F.2d 1211, 1216 (9th Cir. 1980).

A. Federal Question Jurisdiction

Plaintiff has not properly asserted federal question jurisdiction.[2] He claims the President of the United States has violated the Fourteenth Amendment. Section 1 of the Fourteenth Amendment states in part:

---

[1] Case numbers CV 94-6143-JSL, CV 94-7742-HLH(JRx), and CV 95-0709-RG(SHx). The orders dismissing these actions are attached to this order as exhs. 1, 2, and 3 respectively.

[2] Plaintiff does not appear to allege diversity jurisdiction.

> No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States: nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

U.S. Const. amend. XIV, § 1.

However, the President of the United States is not a state nor does he act on behalf of a state. Instead, he is a member of the executive branch of the federal government. Therefore, the Fourteenth Amendment cannot serve as authority for a lawsuit against the President of the United States.

B. Standing

Plaintiff claims injuries not only to himself but also to fetuses. However, this court lacks jurisdiction inasmuch as plaintiff has no standing to file this action on behalf of fetuses. Plaintiff's self-claimed status as a defender of fetuses does not confer standing. Diamond v. Charles, 476 U.S. 54, 66 (1986).

2. Venue

The venue provisions of 28 U.S.C. § 1391 pertinent to this action are as follows:

> (b) a civil action wherein jurisdiction is not founded solely on diversity of citizenship may, except as otherwise provided by law, be brought only in (1) a judicial district where any defendant resides, if all defendants reside in the same State, (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of the property that is the subject of the action is situated, or (3) a judicial district in which any defendant may be found, if

there is no district in which the action may otherwise be brought.

Based on plaintiff's complaint, venue is not proper in the Central District of California. The President of the United States does not reside in the Central District of California. Plaintiff states the "process" of the United States Supreme Court is in error. Since the United States Supreme Court is located in Washington D.C. "a substantial part of the events or omissions giving rise to the claim" take place in Washington D.C.

3. Pro Se Representation

Finally, plaintiff not only appears to represent himself but also claims to represent all fetuses. A non-attorney may represent himself pro se, but the privilege is personal to him. C.E. Pope Equity Trust v. United States, 818 F.2d 696, 697 (9th Cir. 1987). Plaintiff has no authority to appear as an attorney for those other than himself. Id.; see also Local Rule 2.9.2.

IT IS HEREBY ORDERED that this action is dismissed for lack of subject matter jurisdiction.

DATED: 12/7/95

/s/ _____
J. SPENCER LETTS
UNITED STATES DISTRICT JUDGE

// Here follows exhibit 1 //

FILED
CLERK, U.S. DISTRICT COURT
JAN -9 1995
CENTRAL DISTRICT OF CALIFORNIA
BY DEPUTY

ENTERED
CLERK, U.S. DISTRICT COURT
JAN 10 1995
CENTRAL DISTRICT OF CALIFORNIA
BY DEPUTY

THIS CONSTITUTES NOTICE OF ENTRY
AS REQUIRED BY FRCP, RULE 77(d).

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

EURICA CALIFORRNIAA, Plaintiff,	)	CV 94-6143-JSL
v.	)	ORDER GRANTING
UNITED STATES OF AMERICA,	)	DEFENDANT'S MOTION TO DISMISS
Defendant.	)	

The motion to dismiss of defendant United States of America was decided without hearing on January 5, 1995.

Having reviewed the papers filed in connection with this matter and being fully apprised of the relevant facts and law,

IT IS HEREBY ORDERED that the motion to dismiss of defendant United States of America be GRANTED. This action shall be dismissed with prejudice.

IT IS SO ORDERED.

DATED: 1/9/95 /s/ _____
J. Spencer Letts
United States District Judge

// Here follows exhibit 2 //

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. CV94-7742 HLH (JRx)
Date 2/13/95
Title Eurica Californiaa v. USA

DOCKET ENTRY

PRESENT:
HON. HARRY L. HUPP, JUDGE
Milli Borgarding C. Mizell
Deputy Clerk Court Reporter
ATTORNEYS PRESENT FOR PLAINTIFFS:
Eurica Californiaa (pro per) ✓
ATTORNEYS PRESENT FOR DEFENDANTS:
Nora Manella
Leon W. Weidman
Donna J. Everett
D. Schouten ✓
PROCEEDINGS:
Motion to Dismiss

ORDER (also, if applicable, findings and memorandum opinion):

The motion to dismiss is granted without leave to amend. The action is dismissed by separate order signed and filed this date.

Many of the contentions argued by the government on

this motion to dismiss have merit but would only lead to a dismissal with leave to amend. However, one of the argued grounds is fatal to the plaintiff's case and cannot be remedied by amendment to the complaint -- that is sovereign immunity. Accordingly, the granting of this motion to dismiss is based on lack of jurisdiction of this court.

As defendant points out, the United States may only be sued and the district court has jurisdiction only in situations where the United States has given its consent to be sued. It has not consented to be sued in a RICO case. Accordingly, this lawsuit may not be maintained and the action is dismissed.

A:947742.213

MINUTES FORM 11
CIVIL-GEN
Initials of Deputy Clerk /s/
D-M

// Here follows exhibit 3 //

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV95-709 HLH (JRx)
Date	May 24, 1995
Title	Eurica Californiaa v. William Rehnquist, Chief Justice

DOCKET ENTRY

PRESENT:

HON. HARRY L. HUPP, JUDGE

Milli Borgarding — None Present

Deputy Clerk — Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFFS:

Eurica Californiaa (pro per)

ATTORNEYS PRESENT FOR DEFENDANTS:

Michael Johnson, AUSA

PROCEEDINGS:

MOTION TO DISMISS

ORDER (also, if applicable, findings and memorandum opinion):

The motion to dismiss is granted without leave to amend. The action is dismissed by order signed and filed this date. The matter is removed from the calendar of 6/5/95 and decided by this minute order.

Mandate may only be used to control the ministerial (i.e., the non-discretionary or non-judgmental) actions of a public official. The Chief Justice does not have any ministerial duty raised by the complaint or any conceivable amendment to the complaint. There are no legal issues worthy of discussion at oral argument; the matter is therefore removed from the calendar of 6/5/95. The action is dismissed.

A:950709.524

MINUTES FORM 11
CIVIL-GEN
Initials of Deputy Clerk /s/
D-M

Office of the Clerk
United States Court of Appeals for the Ninth Circuit
121 Spear Street, P.O. Box 193939
San Francisco, CA 94105-3939

February 26, 1996

U.S. Court of Appeals Docket Number: 96-55252
Lower Court Docket No.: CV-95-07606-JSL(CT)
Short Title: Californmiaa v. President of the U.S[.]

Dear Counsel:

A copy of your notice of appeal/petition has been received in the Clerk's office of the United States Court of Appeals for the Ninth Circuit.

The U.S. Court of Appeals docket number shown above has been assigne[d] to this case. You must indicate this Court of Appeal docket number when corresponding with this office relative to your case. Please furnish this docket number immediately to the court reporter if you place an order or have placed an order, for portions of the trial transcripts. The court reporter will need this docket number when communicating with this court.

THE DUE DATES FOR DESIGNATING AND FILING THE REPORTER'S TRANSCRIPT, IF APPLICABLE, FILING THE PARTIES' BRIEFS AND OTHERWISE PERFECTING THE APPEAL HAVE BEEN SET BY THE ENCLOSED "TIME SCHEDULE ORDER", PURSUANT TO APPLICABLE FRAP RULES. THESE DATES CAN BE EXTENDED ONLY BY COURT ORDER. FAILURE OF THE APPELLANT TO COMPLY WITH THE TIME

SCHEDULE ORDER WILL RESULT IN AUTOMATIC DISMISSAL OF THE APPEAL.

Payment of the $100.00 U.S. Court of Appeals docket fee is past due. The fee is payable to the Clerk of the District Court, Tax Court or the Bankruptcy Appellate Panel for an appeal, and to the Clerk of this court in an agency case or original proceeding.

NO PAPERS MAY BE FILED WITH THE COURT UNTIL THE DOCKET FEE REQUIREMENT HAS BEEN SATISFIED. IF THE DOCKET FEE IS NOT PAID WITHIN TEN DAYS OF THE FILING OF THE NOTICE OF APPEAL, DISMISSAL PROCEEDINGS WILL BE COMMENCED. Ninth Circuit Rule 42-1.

The following information is being provided in an attempt to answer the most frequently asked questions regarding the appellate process. Please review this information very carefully. For convenience, the term "Circuit Rules" will be used for "Rules of the United States Court of Appeals for the Ninth Circuit" and "FRAP" for "Federal Rules of Appellate Procedure" will be used throughout this document.

Enclosed with this letter is an appellate processing schedule along file as an aid in monitoring case progress.

APPELLANTS/PETITIONERS WHO ARE FILING PRO SE SHOULD REFER TO THE ACCOMPANYING INFORMATION SHEET REGARDING THE FILING OF INFORMAL BRIE[FS.]

SUPREME COURT OF THE UNITED STATES
RULE 45.1

All process of this Court shall be in the name of the President of the United States.

APPENDIX C

ARTICLE II, SECTION 1, CLAUSE 8
OF THE CONSTITUTION OF THE UNITED STATES

Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation:--"I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States."

FOURTEENTH AMENDMENT, SECTION 1 TO THE CONSTITUTION OF THE UNITED STATES

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.